



**COUNCIL OF
THE EUROPEAN UNION**

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LIMITE

**CONSOM 31
JUSTCIV 46**

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject : Council Resolution on a Community-wide network of national bodies for the
extra-judicial settlement of consumer disputes

COUNCIL RESOLUTION

of

on a Community-wide network of national bodies
for the extra-judicial settlement of consumer disputes

THE COUNCIL OF THE EUROPEAN UNION,

1. NOTES the rapid development of new forms of marketing of goods and services, in particular through e-commerce, and thereby also an increase in cross-border consumer transactions which will be further enhanced through the introduction of the euro.
2. REAFFIRMS its concern as regards strengthening consumers' confidence in the functioning of the internal market and their capacity to take full advantage of the opportunities it offers.
3. CONSIDERS that, to this end, in addition to improved access to justice, as also envisaged by the Tampere European Council on 15/16 October 1999, the development of practical, efficient and inexpensive procedures for the extra-judicial settlement of consumer disputes should be promoted at national and, in an appropriate form, at Community level.
4. UNDERLINES that any initiative should:
 - be based on voluntary participation,

- not deprive the consumer of his right of access to the courts as acknowledged in Article 6(1) of the European Human Rights Convention,
 - not prejudice any other means of administrative or judicial redress,
 - fully take account of national legal provisions, tradition and practice, as well as of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, and
 - not prejudge the on-going discussion on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters.
5. RECALLS its conclusions of 25 November 1996 on the Commission action plan on consumer access to justice and the settlement of consumer disputes in the internal market, which includes a reference to the Consumer Claim Form, and its Resolution of 19 January 1999 on the Consumer Dimension of the Information Society ¹.
6. NOTES that Commission Recommendation 98/257 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes is an important contribution to the establishment and development of national bodies.
7. NOTES that out-of-court bodies exist in Member States which fall outside the scope of Recommendation 98/257, as they do not formally propose and/or impose a solution, but merely attempt to find a solution by common consent, and which therefore are not expected to apply all the principles established in the Recommendation, but which also play a useful role for the consumer.

¹ OJ C 23, 28.1.1999, p. 1.

8. WELCOMES the Commission working document on the creation of a European Extra-Judicial Network (EEJ-Net).
9. WELCOMES the Commission's suggestion to include in the EEJ-Net, where appropriate, out-of-court bodies or schemes falling outside the scope of Recommendation 98/257 and suggests that Member States see to it that such bodies or schemes apply all the criteria to be developed as outlined in point 11(5).
10. INVITES the Member States to:
 - (1) encourage the activities of bodies for the out-of-court settlement of consumer disputes, also as regards transborder transactions, and where appropriate, the setting-up of such bodies, on the basis of Recommendation 98/257;
 - (2) taking account of point 4 above and in the light of the ongoing discussion among stakeholders, create or designate, in addition, in each Member State a central point (Clearing House) to provide information, guidance, practical support and practical assistance to consumers in order to facilitate their access to the relevant out-of-court bodies or schemes at national level or, where appropriate, in the country of the supplier, as well as to the contact points in other Member States;

- (3) encourage cooperation between professional and economic organisations and consumer organisations with a view to:
 - contributing to the activities of out-of-court bodies and the contact points,
 - promoting, in this context, the creation of new dispute settlement schemes, in particular with an on-line application;
- (4) encourage companies, as well as professional and economic organisations, to act in affiliation or association with out-of-court bodies in Member States where they or their members do business with consumers;
- (5) communicate to the Commission, if they have not yet done so, the bodies applying the principles of Recommendation 98/257 as well as, where appropriate, other out-of-court bodies or schemes.

11. INVITES the Commission to:

- (1) assist Member States, where appropriate, on a technical basis in the promotion of activities of existing out-of-court bodies and in the establishment of new bodies;
- (2) take action to facilitate the networking of the national central points to form a Community-wide extra-judicial network designed to facilitate the out-of-court settlement of transborder disputes;

- (3) support the above network, in accordance with Decision No 283/1999/EC of the European Parliament and of the Council of 25 January 1999 establishing a general framework for Community activities in favour of consumers,¹ and within the limits of the financial framework determined therein;
 - (4) support on a technical basis the setting up and co-ordination of national central points, in particular by means of technical devices for on-line communication and translation facilities;
 - (5) develop in close cooperation with Member States common criteria for the assessment of out-of-court bodies falling outside the scope of Recommendation 98/257; these criteria should ensure, inter alia, the quality, fairness and effectiveness of such bodies;
 - (6) consider also encouraging out-of-court bodies and central points to develop, as far as possible, practical arrangements in favour of the consumer, inter alia, where appropriate, the use of – especially where a contract has been concluded at a distance – a written or on-line procedure, in particular in transfrontier dispute settlement, so as to avoid the need for the consumer to travel.
12. INVITES Member States to keep the Commission regularly informed of the development of national bodies and central points; INVITES the Commission to report regularly to the Council on the development of an EEJ-Net and other more specialised networks established for similar purposes.

¹ OJ L 34, 9.2.1999, p. 1.